

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

FIRE AND POLICE RETIREE  
HEALTH CARE FUND,  
SAN ANTONIO,

*Plaintiff*

v.

SACKLER, RICHARD D. *et al.*,

*Defendants.*

Civil Action No. 4:19-cv-02089

**OPPOSED MOTION TO LIFT STAY FOR FILING MOTION TO EXTEND**

Defendants Walgreens Boots Alliance, Inc. and Walgreen Co. (collectively “Walgreens”) and Defendants CVS Health Corporation, CVS Pharmacy, Inc., CVS TN Distribution L.L.C. (collectively “CVS”) file this motion to lift the Court’s June 12, 2019, Stay Order for the purpose of Walgreens’s and CVS’s filing a motion for extension of time to answer or move to dismiss “Plaintiff’s Original Petition” (“Plaintiff’s Complaint”), and in support state as follows:

1. Plaintiff Fire and Police Retiree Health Care Fund, San Antonio (“Plaintiff”) initiated this litigation in an action captioned *Fire and Police Retiree Health Care Fund, San Antonio v. Richard D. Sackler, et al.*, bearing cause number 2019-CI-06151, in the District Court of Bexar County, Texas. Plaintiff brought claims against CVS and Walgreens related to the distribution and dispensing of various prescription opioid medications. [Dkt. 1-1.]

2. On June 7, 2019, CVS removed this action to this Court. [Dkt. 1.].

3. On June 11, 2019, Co-Defendants Insys Manufacturing LLC, and Insys Therapeutics, Inc., filed a Suggestion of Bankruptcy. [Dkt. 3.].

4. On June 12, 2019, the Court entered an automatic stay Order pursuant to the above-referenced suggestion of bankruptcy. [Dkt. 4].

5. Walgreens and CVS intend to file, and Plaintiff does not oppose, a motion to extend the time for CVS and Walgreens to answer or move to dismiss Plaintiff's Complaint to: (1) five days after this case is remanded to Judge Robert Schaffer, In re: Texas Opioid Litigation, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas; or (2) fourteen days after this case is transferred to *In re Nat'l Prescription Opiate Litig.*, MDL No. 2804 (J.P.M.L. Dec. 5, 2017), if this case is not remanded before this matter is transferred to federal MDL No. 2804.

6. Walgreens and CVS request that the Court lift the stay for the limited purpose of considering and ruling on Walgreens's and CVS's unopposed motion to extend time. Plaintiff opposes because it disagrees that the stay applies to co-defendants. Walgreens and CVS nonetheless file this motion out of an abundance of caution, and because the text of the Court's stay order suggests it applies to all parties and filings.

7. A proposed order is filed along with this Motion.

#### **RELIEF REQUESTED**

WHEREFORE, CVS and Walgreens ask that the Court grant this Motion and lift the Court's June 12, 2019, Stay Order for the limited purposes of filing and considering Walgreens' and CVS' unopposed motion to extend, which is being filed contemporaneously with this Motion.

Dated: July 3, 2019

Respectfully submitted,

/s/ Joel C. Simon

Joel C. Simon

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